

**IN THE UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

In re: Nicole Culbreth  
Debtor.

Case Number 19-32938-KRH  
Chapter 13

Address: 468 Hollybrook Ridge Lane  
Richmond, VA 23223  
SSN: xxx-xx- 8956

**AMENDED NOTICE OF MOTION**

Nicole Culbreth, (“the Debtor”), by counsel, has filed an **Amended Motion to Extend Automatic Stay**.

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case.**

If you do not want the court to grant the relief sought in the motion, or if you want the court to consider your views on the motion, then on or before you or your attorney must:

- ✓ File with the court, at the address shown below, a written request for a hearing [or a written response pursuant to Local Bankruptcy Rule 9013-1(H)], within fourteen (14) days. If you mail your request for hearing (or response) to the court for filing, you must mail it early enough so the court will receive it on or before the date stated above.

**Clerk of Court  
United States Bankruptcy Court  
701 E. Broad Street, Room 4000  
Richmond, VA 23219**

Massie Law Firm, PC  
Joseph Massie, III, Esquire (Bar No. 35472)  
115 N. 1<sup>st</sup> Street  
Richmond, VA 23219  
(804) 644-4878 (T)  
(804) 644-4874 (F)  
[jmassie@massielawfirm.com](mailto:jmassie@massielawfirm.com)

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You must also mail a copy to:

Joseph Massie, III  
115 N. 1<sup>st</sup> Street  
Richmond, VA 23219-2125

- ✓ **Attend a hearing to be scheduled June 19, 2019 at 12:00 pm 701 E. Broad Street, Judge Huennekens' Courtroom 5000, Richmond, VA 23219.**

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

June 6, 2019

/s/: Joseph Massie, III  
Joseph Massie, III  
115 N. 1<sup>st</sup> Street  
Richmond, VA 23219-2125  
(804) 644-4878 (T)  
(804) 644-4874 (F)

**CERTIFICATE OF SERVICE**

I hereby certify that on June 6, 2019, I sent, electronically, or mailed a true and exact copy of the foregoing **AMENDED NOTICE OF MOTION** to all necessary parties.

June 6, 2019

RESPECTFULLY SUBMITTED

Nicole Culbreth

By: /s/: Joseph Massie, III  
Joseph Massie, III  
115 N. 1<sup>st</sup> Street  
Richmond, VA 23219-2125  
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EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

In re: Nicole Culbreth  
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Case Number 19-32938-KRH  
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**AMENDED MOTION TO EXTEND AUTOMATIC STAY AND MEMORANDUM IN  
SUPPORT THEREOF**

**COMES NOW**, Nicole Culbreth, (“the Debtor”), by Counsel, and offer the following in support of her **Amended Motion to Continue the Automatic Stay**:

1. On **June 1, 2019**, the Debtor filed in the Honorable Court a petition for relief under Chapter 13 of Bankruptcy Code 11 USC § 362(c)(3)(B) **et seq.**
2. Debtor filed for bankruptcy on January 16, 2018 with case number 18-30220-KLP.
3. Case number 18-30220-KLP was dismissed on March 1, 2019.
4. Respectfully, the prior case was pending within one year of the filing of this instant case, thus triggering the provision of 11 U.S.C. §§ 362 (1) (3).
5. Because the instant case was filed within one (1) year of the dismissal of the prior case, the automatic stay will expire in the instant case on (January 16, 2018 + 30 DAYS) unless the Court extends the automatic stay pursuant to 11 U.S.C. §362 (c)(4)(B) Pursuant to the provisions of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (“BAPCPA”), the Debtor must demonstrate to the Court that the second case was filed in good faith in order to obtain an extension of the automatic stay pursuant to 11 U.S.C. §362 (c)(4)(B).
6. July 11, 2013 case number 13-33775-KRH was filed.
7. Case number 13-33775-KRH was dismissed on June 16, 2016 and terminated September 12, 2016.
8. In the instant case of 19-32938-KRH, Ms. Culbreth: propose a Chapter 13 Plan (the “Plan”) that commits all of her disposable income \$700.00 per month, to paying the Trustee for a period of 60 months. Total payments required pursuant to the Plan equal \$42,000.00.
9. Priority Creditors, the Plan proposes the following:

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- a. The total claim is \$59,432.68 and Chapter 13 plan to pay out the priority claim to IRS in the amount of \$ 16, 599.21.
  - b. The total claim is \$14,235.33 and Chapter 13 plan to pay out the priority claim to VA Department of Taxation in the amount of \$6,878.33.
10. Other than administrative expenses, the Plan proposes the following:
- a. To pay out the secured claim to **Westlake Financial Services**, 2009, Lexus RX 350, 9,800 miles in the amount of \$10, 000.00 with 5.0% interest.
11. In evaluating a Debtor(s) good faith in filing bankruptcy, Courts within the Fourth Circuit are given broad discretion, but are directed to look to “the totality of the circumstances... on a case by case basis.” Deans v. O’Donnell, 692 F.2d 968, 972 (4<sup>th</sup> Cir. 1982). Among the factors to be considered are “the percentage of proposed repayment, the Debtor’s financial situation, the period of time the payment will be made, the Debtor’s employment history and prospects, the nature and amount of unsecured claims, the Debtor’s past bankruptcy filings, the Debtor’s honesty in present facts, and any unusual or exceptional problems facing the particular Debtor.” Neufeld v. Freeman, 794 F.2d 149, 152 (4<sup>th</sup> Cir. 1986), *citing* Deans v. O’Donnell, 692 F2d at 972.
12. That the Debtor wish to reorganize their debts and are able to maintain the payments to the Trustee.
13. The period of time payment is to be made is reasonable and Debtor does not show any extraordinary living expenses. The Debtor’s expenses reflect a life-style that is moderate and basic.
14. In the instant case, the Debtor filed bankruptcy once within the past twelve months.
15. In analyzing the present situation, the Debtor possess the factors that the Court considers in determining whether the Debtor filed this bankruptcy in good faith.

WHEREFORE, the Debtor respectfully request this Honorable Court to enter an Order extending the automatic stay for the duration of the instant case as to all creditors.

June 7, 2019

RESPECTFULLY SUBMITTED,  
Nicole Culbreth

By: /s/: Joseph Massie, III  
Joseph Massie, III  
115 N. 1<sup>st</sup> Street

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**CERTIFICATE OF SERVICE**

I hereby certify that on June 7, 2019, I sent, electronically, or mailed a true and exact copy of the foregoing **Amended Motion to Extend Automatic Stay** to all necessary parties.

June 7, 2019

RESPECTFULLY SUBMITTED  
Nicole Culbreth

By /s/: Joseph Massie, III  
Joseph Massie, III  
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Capital One  
Attn: Bankruptcy  
Po Box 30285  
Salt Lake City, UT 84130

Carl Bates  
PO Box 1819  
Richmond, VA 23219

Conduent/Bofa  
Attn: Claims Department  
Po Box 7051  
Utica, NY 13504

Department of Education/Nelnet  
Attn: Claims  
Po Box 82505  
Lincoln, NE 68501

Dept of Taxation

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Office of Compliance  
PO Box 27407  
Richmond, VA 23261

Eastern Account System, Inc.  
Attn: Bankruptcy  
Po Box 837  
Newtown, CT 06470

IRS  
P.O. Box 7346  
Philadelphia, PA 19101-7346

IRS  
P.O. BOX 7346  
Philadelphia, PA 19101

Mariner Finance  
Attn: Bankruptcy  
8211 Town Center Drive  
Nottingham, MD 21236

no name on CR Liability

Office of US Trustee  
701 E. Broad Street  
Suite 4300  
Richmond, VA 23219

Orange Lake Resorts  
Attn: Bankruptcy  
9271 South John Young Parkway  
Orlando, FL 32819

Patrick R. Pettitt, Esq  
3 Ruckman Road  
Fort Monroe, VA 23651

Quality Asset Recovery  
Attn: Bankruptcy

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Po Box 239  
Gibbsboro, NJ 08026

Receivables Management Group  
Attn: Bankruptcy  
2901 University Ave. Suite #29  
Columbus, GA 31917

US Dept of Education  
Attn: Bankruptcy  
Po Box 16448  
Saint Paul, MN 55116

USDOE/GLELSI  
Attn: Bankruptcy  
Po Box 7860  
Madison, WI 53707

Wells Fargo Bank  
Attn: Bankruptcy  
Po Box 10438  
Des Moines, IA 50306

Westlake Financial Services  
Attn: Bankruptcy  
Po Box 76809  
Los Angeles, CA 90054

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